

HEALTH FACILITY COMMITTEE

February 8, 2006, ROOM 101, 9:00 – 12:00
288 North 1460 West, SLC, Utah 84116

Members Present:

Denell Bredsguard, Keith Tintle, Paul Fairholm, Galen Ewer, Tracy Stocking, Mary Petersen, Jeanette Drews and Jill Andrews

Members Excused:

Paul Clayton and Joyce Wanta

Staff Present:

Allan Elkins, Laurie Miller and Joel Hoffman

Keith Tintle welcomed new member Jeanette.

Minutes:

Ms. Bredsguard made a motion that we accept the minutes. Ms. Andrews seconded the motion. Mr. Tintle called for a vote and MOTION PASSED.

Old Business:

1. **Assisted Living Soiled Linen Rooms – Allan Elkins**

Mr. Tintle stated that at our last meeting we made a motion to have the health department rewrite the rule to be one room with washing facilities. Mr. Tintle stated that he was informed by Mr. Elkins that the legal counsel has advised that Mr. Fairholm apparently had an unintentional conflict of interest, and we need to resubmit that motion and revote. Mr. Tintle asked if someone else other than Mr. Fairholm would make this motion. Ms. Petersen made a motion to resubmit this rule, Ms. Andrews seconded the Motion. The vote was called and MOTION PASSED.

Discussion was held concerning the definition of conflict of interest. Mr. Elkins stated that under the rules that we have adopted in the by-laws, if you represent a particular industry; or own a percent of a facility in the industry, and you're moving to change the rules that govern and regulate that industry, that is considered a conflict of interest. Mr. Elkins stated that making and/or seconding a motion is the issue that the attorney wanted us to clarify. Mr. Elkins stated that each member is valuable to the committee precisely because of their specific knowledge of some aspect of health care, but after discussion we need to have a person with no conflict of interest make the motion and second it. Mr. Elkins will check with the attorney to make sure that person can also vote.

2. **Recruitment/Reappointment of committee Members – Allan Elkins**

Mr. Elkins stated that the governor's office will be reviewing Mr. Robert Reeder as a member, so we hope to have him aboard in the near future.

3. **Rule Updates – P.O.L.S.T. – Soiled Linen – Joel Hoffman**

Mr. Hoffman stated that the Soiled Linen rule in Assisted Living Facilities will be getting filed in a few weeks; then 30 day comment period. Mr. Hoffman stated that by the first of April it may be affective.

Mr. Hoffman stated that the P.O.L.S.T. rule has been filed; may become affective the first of April. Mr. Hoffman passed out a draft copy of the rule and went over the changes high-lighted in grey with the committee. Ms. Bredsguard stated “should they send the original or a copy with the patient.” Mr. Hoffman stated that there is nothing in the rule regarding that. Mr. Tintle stated for the record that the committee endorse this and adopt the form.

New Business

1. **Report on Informal Discussion of Possible committee goals for January 12, 2006 Meeting – Keith Tintle**

Mr. Tintle asked everyone at the meeting to identify themselves; Ms. Andrews, Ms. Bredsguard, Mr. Stocking, Ms. Petersen, Ms. Wanta and Mr. Fairholm were there; also Representative Rebecca Lockhart; Ms. Wynkoop and Mr. Krella of Utah Hospital Association; Mr. Elkins, Mr. Hoffman, and Ms. Miller of Department of Health.

Mr. Tintle stated that the minutes will be sent to you or shared at the next informal meeting. Mr. Tintle stated that we have a very broad scope of what we could influence. Mr. Tintle stated that he identified at least 12 potential areas that came out of this meeting. Mr. Tintle went over this list, (1) Consider facilities comprehensive ability to deal with pandemic crisis (i.e. Avian Flu); (2) Spend more time on 5-year reviews respective to Board consideration; (3) Discussion of rules that impact Hospice industry; (4) Review rules in terms of promoting open competition of licensed entities; (5) Consider methods to promote easy and accessible healthcare information to consumers; (6) Review and revise bylaws that govern Licensing committee, Mr. Elkins stated that the last time the bylaws were reviewed was in 1994 after their original development in 1981; (7) Consider what the committee can do to most positively affect end-of-life care; (8) Consider the scope of entities that we should be licensing; (9) Consider how we should be licensing Assisted Living Facilities; (10) Identify entities which offer a level of health care or related area, but are currently under no licensing purview; (11) Evaluate the impact of physician self referral practices in Utah; (12) Evaluate how the Board can best serve the needs of the State by Lessening “red Tape” and unnecessary regulations.

Mr. Tintle stated that we need to meet back again as a group in an special/formal meeting and take each one of these and discuss over a two hour time frame. Mr. Tintle stated that the committee could decide and pick two or three items to take on. Ms. Bredsguard stated that we could focus on two or three. Mr. Stocking stated that we talked about specialty hospitals in the informal meeting also. Mr. Tintle stated we could add that as number (13) Evaluate impact of specialty services. Mr. Ewer stated that maybe the name of the committee could be changed. Mr. Tintle would like everyone to take a look at each one of these and if anyone on the committee has an interest between now and the informal meeting; you could get your data together and as we meet again we could decide on a few of these.

Ms. Petersen stated she would like to look at number five; consider methods to promote easy and accessible healthcare information to consumers. Ms. Bredsguard stated that a company was trying to promote that kind of information and it turned out to be so massive that is was almost unattainable. Ms. Bredsguard stated that should it be a matter of them paying for that advertising or should everyone be included. Ms. Bredsguard stated that if we could link into the state system were there was a list of all state licensed entities, that would be one way. Mr. Elkins stated that report cards of our inspections are on our

bureau website, and we do break it out county by county. It can be useful but it's not as user-friendly as we'd like it to be.

Mr. Tintle stated that we need to have another informal meeting in mid March to discuss these types of issues. Mr. Tintle stated if you can't come send someone in your place or a letter to him. Mr. Tintle asked for a motion to have an extra planning meeting, Mr. Ewer made the motion, Ms. Bredsguard seconded it. The vote was called and MOTION PASSED.

2. Feasibility Study Sub-Committee Report – Mary Peterson

Ms. Peterson stated that the feeling the sub-committee ended up with was not a resolution, and there was not a recommendation from the sub-committee. Every representative had differing opinions. Mr. Fairholm stated that the issues that were talked about were very much global industry issues. Mr. Tintle stated that he believes that we are very temperate in putting together a feasibility study that had no binding impact.

Mr. Tintle stated it didn't go as far as some people wanted it to, like implementing certificate of need with adequate review, public hearings etc. Mr. Tintle stated that it suggested that there was a point of public input where the public could be aware of new entity coming in and at least have the ability to require that entity to consider staffing, where are they going to get licensed staff to be able to do what they are proposing. Mr. Tintle asked, has the company looked at the demographics of the community, if there was a good need for that service that would push what we anticipated would be a sound business? Mr. Tintle stated it didn't meet either side's needs, but opened up the issue to get people to consider things. Mr. Tintle stated that this was to fall somewhere in the middle and didn't succeed in satisfying either entity. Mr. Fairholm stated that the issue isn't the feasibility study, or the rule. Mr. Tintle stated that this is one of those rules that need to be re-evaluated, it's not relevant. Mr. Tintle stated maybe we should review this rule for its relevance and if it's not relevant, get one of the representatives and draft legislation to do that. Mr. Tintle stated that by taking away the rule then those people that are admittedly in support of a viable feasibility study that is competent, then they can make their argument somewhere else.

Mr. Ewer stated that maybe at one of our meetings we could identify what the rule issues are, that may help us understand which of those we should address. Mr. Fairholm stated that by each industry, the issues were different. The Home Health Agency representatives, stated you could start an agency with \$20,000. Mr. Fairholm stated that you talk to the representatives of the Nursing Home industry and their comment was "maybe we should have the CON". If you listen to the rural hospitals, it was for protection of vital services. Mr. Tintle stated that his opinion is we are talking about unnecessary regulations that have no impact. Mr. Fairholm stated that this regulation as written does not have great meaning, but if you understand the concept behind the words that are written, then it has some meaning.

Mr. Tintle stated that maybe we need to re-do the rule. Ms. Petersen stated that we need to modify what's in place. Mr. Tintle asked Mr. Hoffman what he would do. Mr. Hoffman stated that we don't see any substantial benefit from this process. Mr. Hoffman stated that we see what they turn in; we review it and send it on, and bill for it. Mr. Hoffman stated that it has no affect on the license. Mr. Tintle asked if this would stop anyone from doing what they were going to do initially. Mr. Stocking stated that it has stopped some, level 1 small assisted living developers, just because it cost money. Mr. Fairholm stated that if they got into the policy manual writing process or some of the other process that are required, that it had the same affect.

Mr. Tintle stated that what he hears is that this is an issue that the committee may want to address down the line in terms of regulation, for now we need to table for further discussion. Ms. Petersen made a motion that we should table this issue of the feasibility study until we obtain further information from all the various industries that are involved. Mr. Stocking seconded the motion. The vote was called and MOTION PASSED.

3. Five year Rule Reviews – Joel Hoffman

Mr. Hoffman stated that there are 41 rules. Mr. Hoffman stated that he found out that the committee can decide to do these five year reviews anytime. Mr. Hoffman stated that any of these rules has to be done at least every five years or more often as decided. Mr. Hoffman passed out a sheet with all the rules and when they were last reviewed, five year effective date and next filing due date. Mr. Hoffman stated that there are 23 coming up next year. Mr. Hoffman stated that we can review them early. If we don't do the review of the rule and renew it, it would be deleted as a rule.

Mr. Hoffman stated that you can make a rule amendment to any rule, any time. Mr. Hoffman stated that the five year reviews ask on the form "what is the reason to continue this rule". For example, if it's a construction rule, we still want to over see the construction of the facility. Mr. Hoffman stated that in every one of the rules there is also a purpose statement. Mr. Hoffman stated that the Division of Administrative rules sends out a six month and a three month notice to Mr. Elkins and him to let us know which rules are coming up for a five year review so we can plan for that. Mr. Hoffman stated that if there are amendments that are being worked on we don't have to have the amendments done for the review date.

Mr. Tintle asked if there is a public notice. Mr. Hoffman stated just the publications that the administrative rules-division put out. Mr. Tintle stated that any rule review should be done in the first or second quarter. Mr. Tintle stated that when it's an issue the industry brings it to us and they make a recommendation, we decide if it merits a sub-committee or not and that's how we have always been reactive, not pro-active. Mr. Tintle stated that we could talk about this in the March meeting.

Mr. Stocking made a motion to dismiss the meeting. Mr. Ewer seconded the motion.

Keith Tintle, Chairperson

Allan D. Elkins, Executive Secretary